

The Citizens Utility Board and The City of Chicago's Reply Comments in the First Phase of the Retail Competition Workshop

May 15, 2006

On April 5, 2006, the Illinois Commerce Commission (ICC) Staff served a workshop process notice to all parties to ICC Docket Nos. 05-0159, and 05-0160/61/62. In this notice, Staff asked for comments on both a proposed definition of retail competition and a list of topics that should be addressed through the workshop process. On April 21, 2006, CUB and the City of Chicago ("CUB-City"), the Illinois Industrial Energy Consumers ("IIEC"), Commonwealth Edison Company ("ComEd"), Ameren Corporation ("Ameren"), Sempra Energy Solutions ("Sempra"), and the Coalition of Energy Suppliers ("CES"), currently comprised of Constellation New Energy, Inc., Direct Energy Services, LLC, MidAmerican Energy Company, Peoples Energy Services Corporation, and U.S. Energy Savings Corp., submitted comments in response to Staff's notice.

On May 5, 2005 Staff noted, "[t]he first task for the workshop participants should be to develop a consensus definition, if possible. To that end, it would be helpful if parties could provide an indication of a preferred definition through a second round of comments."

CUB and the City have reviewed the comments and proposed definitions submitted by the parties and note that there is significant common ground among most of the proposed definitions. The following comments will identify the common ground and will respond to each definition individually.

IIEC

IIEC did not propose a specific definition but raised many important points that CUB and the City agree must be considered in arriving at a consensus definition of retail competition. Specifically, IIEC is correct that any consensus definition should consider the vibrancy of the retail market and its ability to deliver benefits to consumers in each customer segment. IIEC is also correct that the definition should endeavor to provide appropriate benchmarks, such as the number of suppliers providing service and actual customer switching activity, by which the robustness of the competitive market can be measured. These concerns must be addressed in order to determine the existence and vigorousness of retail price competition for each customer segment.

Ameren

Retail Competition: The ability of retail electric customers to choose between different electricity supply options from either the local electric utility or from an alternative retail electric supplier.

Ameren has proposed a definition of competition that is overly simplistic. According to this definition the mere existence of one single competitive supplier in a single city would be competition. Under this definition, “markets” in China and the old Soviet Union would exhibit retail competition. Clearly this is inappropriate. The existence of one supplier offering one single niche product to consumers will not discipline prices. CUB and the City believe that price discipline is the key feature that differentiates competitive markets from markets that require strict regulatory oversight and intervention.

ComEd

Retail Competition: The exposure and response of retail electric customers to reasonably efficient price and/or non-price signals associated with services offered by utilities, retail electric suppliers ("RESs") or other sources of substitute or complementary products or services.

ComEd has proposed a definition that is somewhat similar to the definition proposed by Ameren. “Exposure” and “response” to price signals says nothing about the ability of competition to restrain prices. The phrase “reasonably efficient price and/or non-price signals” may be interpreted to imply that some price discipline is necessary to drive efficiency, but CUB and the City believe that, rather than being an implicit assumption, this concept is crucial and must be spelled out for clarity.

CES

Retail Competition: Retail competition is characterized by the ability of consumers to choose from multiple alternatives with varying value propositions to best suit their needs. The competitive process that suppliers and consumers engage in to develop these alternatives leads to innovation and a furtherance of consumer benefits as competitors seek the business of individual customers. Retail competition depends on low barriers to entry and on clear, transparent legal institutions governing the terms on which rival firms compete. The transition from monopoly to competitive retail markets requires ongoing and active regulatory oversight.

CUB and the City agree with CES that competition cannot exist without a clear, transparent framework. CUB and the City also agree that the transition from monopoly to competitive retail markets requires aggressive regulatory oversight. Complaint of illicit marketing tactics by competitive suppliers in the natural gas market has made it exceedingly clear that strict rules are necessary at the outset of competitive entry into the residential market to avoid customer abuse and to instill some degree of confidence in competitive suppliers. CUB and the City believe that this workshop is a venue to explore such rules.

Sempra Energy Services

Retail Competition: The ability of retail electric customers to choose whether to purchase energy related products and services from many retail electric service suppliers. The amount of competitive retail activity is maximized when all identified barriers to wholesale and retail competition have been eliminated.

Sempra raises a valid point about the need to expand the definition to include other energy related products. However, CUB and the City must note that competition for one product or service may or may not be related to competition for other products or services.

Consensus definition

In an effort to incorporate the concerns of the parties, CUB and the City would propose to modify their initial proposed definition as follows:

Retail Competition: The ability of retail electric customers to choose whether to purchase the energy related products and services their electricity supply that best suit their needs from ~~either~~ the local electric utility, ~~or from~~ unaffiliated alternative retail electric suppliers or other sources of substitute or complementary products and services. The amount of competitive retail activity is maximized when all identified barriers to wholesale and retail competition have been eliminated, and consumers are protected by vigorous price competition. The existence of retail competition depends on clear, transparent guidelines that govern the terms on which rival firms compete. The transition from monopoly to competitive retail markets requires ongoing and active regulatory oversight.

Other Issues

Default Utility Service

CES raises issues with incumbent utilities' ability to limit retail competition by maintaining entry barriers. CES goes on to discuss how poorly structured default utility service can hamper competition. CUB and the City agree that the parties should work to eliminate, or minimize, entry barriers. However, the Commission should not act to constrain or otherwise limit default utility service.

The Utilities have a responsibility to procure service for their customers and the Commission must ensure that this service is provided at the lowest possible cost. While competition is certainly a laudable goal, CUB and the City do not believe that competition is an end unto itself. Competitors may not be able to enter the market because the incumbent utility has access to significant economies of scale that may be

used to achieve the lowest possible price in the marketplace. Such realities should not in any way limit default utility service or influence the Commission to arbitrarily or artificially raise prices. CUB and the City caution the Commission to avoid limited or constrained procurement mechanisms that may result in higher prices for consumers.

Purchase of Receivables / Utility Consolidated Billing (“POR / UCB”)

CUB and the City believe that CES raises important issues with respect to POR and UCB plans. Plans of this type can help encourage retail market development and should be explored by the parties and the Commission.